

## Message Text

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ACTION SCI-06

INFO OCT-01 EUR-25 EA-11 IO-14 ISO-00 CIAE-00 DODE-00

PM-07 H-03 INR-10 L-03 NSAE-00 NSC-10 PA-04 RSC-01

PRS-01 SPC-03 SS-20 USIA-15 SAM-01 OMB-01 FEA-02

ACDA-19 DRC-01 /158 W

----- 042071

R 261431Z FEB 74

FM USMISSION IAEA VIENNA

TO SECSTATE WASHDC 3992

INFO AEC GERMANTOWN

AMEMBASSY BONN

USMISSION EC BRUSSELS

AMEMBASSY TOKYO

C O N F I D E N T I A L SECTION 1 OF 2 IAEA VIENNA 1693

E.O. 11652: GDS

TAGS: PARM, IAEA, US

SUBJECT: US VOLUNTARY OFFER SAFEGUARDS AGREEMENT

REF: IAEA VIENNA 8187, OCTOBER 1973

SUMMARY: IN FIFTH NEGOTIATING SESSION, IAEA MADE SEVERAL SUGGESTIONS FOR ADDITIONAL CHANGES IN US DRAFT OF PROPOSED AGREEMENT AND SOUGHT CLARIFICATION OF SOME ARTICLES. HOWEVER, SECRETARIAT HAD NOT HAD TIME PREPARE SUBSTANTIVE RESPONSE TO OVERALL US APPROACH, AND THIS WAS POSTPONED TO NEXT MEETING IN LATE MARCH OR EARLY APRIL. ACTION REQUESTED: AUTHORIZATION TO CONCUR IN CHANGES PROPOSED BY IAEA. END SUMMARY.

1. US AND IAEA NEGOTIATORS (LOPEZ, RAMES, FRENZEL, AND RYZHOV) MET FEBRUARY 22. SECRETARIAT SAID IT NOT YET READY RESPOND OR COMMENT IN ANY MAJOR WAY ON REVISED US DRAFTS OF AGREEMENT AND PROTOCOL, BUT WOULD SIMPLY SEEK US CLARIFICATIONS AND EXPLANATIONS OF CERTAIN ARTICLES  
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AND POINT OUT A FEW AREAS WHERE INCONSISTENCIES OR

OMISSIONS SEEMED TO REQUIRE RE-DRAFTING. US ATTEMPTED PROVIDE FORMER AND PROMISED REFER LATTER TO WASHINGTON.

2. IN PARTICULAR, SECRETARIAT SOUGHT CONFIRMATION THAT ARTICLES 1(A), 2, 3(C) AND 28 WERE INTER-RELATED AND CONSTITUTED HEART OF NEW APPROACH. US REPS CONFIRMED AND POINTED OUT THIS APPROACH HAD BEEN DEVELOPED AS RESPONSE TO UNEASINESS OF SECRETARIAT NEGOTIATORS IN PREVIOUS MEETINGS OVER EARLIER DRAFT'S ATTEMPT USE INFCIRC/153 LANGUAGE, PARTICULARLY IN DEFINING UNDERTAKINGS AND OBJECTIVE OF SAFEGUARDS (ARTICLE 28), DESPITE OBVIOUS INAPPROPRIATENESS FOR NWS. COMMENT: WE ARE CONFIDENT SECRETARIAT NOW UNDERSTANDS RATIONALE BEHIND NEW APPROACH. HOWEVER, THEY CAREFULLY AVOIDED ANY INDICATION WHETHER THEY ACCEPT IT AND ALLUDED TO NEED FOR CONSULTATIONS AMONG LEGAL AND SAFEGUARDS STAFFS.

3. SECRETARIAT NOTED THAT SIXTH AND SEVENTH PARAS OF PREAMBLE ARE NEW AND DO NOT RPT NOT FLOW NECESSARILY FROM OPERATIVE AGREEMENT PROVISIONS. WE EXPLAINED PURPOSES THOSE PARAS INTENDED SERVE.

4. SECRETARIAT SUGGESTED INSERTION OF PHRASE "AND HAS ENTERED INTO THIS AGREEMENT" AFTER "OFFER" IN FIRST LINE, FIFTH PARA OF PREAMBLE TO PROVIDE BRIDGE TO FOLLOWING PARA. WE CONCUR.

5. SECRETARIAT POINTED OUT THAT ARTICLES 2(A) AND 2(B) REFER TO "TERMS OF PARTS I AND II OF THIS AGREEMENT" WHILE ARTICLE I(A) REFERS SIMPLY TO "TERMS OF THIS AGREEMENT." THEY THOUGHT DIFFERING LANGUAGE WOULD RAISE QUESTIONS UNLESS US HAD SPECIFIC REASON FOR DIFFERENCE. WE SAID WE WOULD RECOMMEND DELETION OF "PARTS I AND II OF" FROM BOTH 2(A) AND 2(B).

6. SECRETARIAT FOUND FIRST SENTENCE OF ARTICLE 34.B UNCLEAR, AND SUGGESTED RE-ARRANGING IT TO READ, "PURSUANT TO ARTICLE 1,B, FACILITIES SHALL BE ADDED TO OR REMOVED FROM THE LIST, AS THE CASE MAY BE, IN ACCORDANCE WITH, AND AT THE TIMES SPECIFIED IN, NOTIFICATION BY THE UNITED CONFIDENTIAL

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STATES." WE CONCUR.

7. WORDS" AND OTHER LOCATIONS" IN ARTICLE 39.B(III) ARE HOLDOVER FROM PREVIOUS DRAFT AND SHOULD BE DELETED. SECRETARIAT POINTED OUT THAT 39.B(III) PROVIDES FOR REMOVAL OF FACILITIES FROM SUBSIDIARY ARRANGEMENTS AT DECISION OF AGENCY BUT HAS NO PROVISION FOR REMOVAL DUE TO US DECISION PURSUANT ARTICLE 34.B. IN FACT

PRESENT WORDING COULD EVEN BE READ AS CONTRADICTORY TO  
34.B. WE RECOMMEND RENUMBERING PRESENT 39.B(III) TO  
39.C. AND ADDING FOLLOWING LANGUAGE AT END OF PRESENT  
39.B.(III): "AND THE UNITED STATES SHALL DESIGNATE TO

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C O N F I D E N T I A L SECTION 2 OF 2 IAEA VIENNA 1693

THE AGENCY THOSE FACILITIES TO BE REMOVED FROM THE LISTING  
PURSUANT TO ARTICLE 34.B." NOTE THAT IMMEDIATELY FOLLOWING  
PARA IS ALREADY IDENTIFIED AS 39.D DUE TO TYPOGRAPHICAL  
ERROR.

8. ARTICLE 42 REFERS TO "NEWLY-CONSTRUCTED" FACILITIES, WHICH  
IS NORMAL PURPOSE OF THIS ARTICLE IN INFCIRC/153. IN US AGREE-  
MENT, THIS ARTICLE MUST COVER NOT ONLY NEWLY-CONSTRUCTED  
BUT ALSO EXISTING FACILITIES NEWLY ADDED TO LIST (E.G., DUE  
TO CESSATION OF DIRECT NATIONAL SECURITY SIGNIFICANCE).  
THEREFORE RECOMMEND REVISE SECOND SENTENCE TO READ: "THE  
TIME LIMITS FOR THE PROVISION OF DESIGN INFORMATION IN  
RESPECT OF A FACILITY WHICH HAS BEEN ADDED TO THE SUBSIDIARY  
ARRANGEMENTS LISTING PURSUANT TO ARTICLE 39.B.(II) SHALL BE  
SPECIFIED IN THE SUBSIDIARY ARRANGEMENTS AND SUCH INFORMATION  
SHALL BE PROVIDED AS EARLY AS POSSIBLE."

9. SECRETARIAT POINTED OUT THAT ARTICLE 89.J CONTAINED NO REFERENCE TO IMPORTS OR EXPORTS IN DEFINITION OF INVENTORY CHANGE. WE EXPLAINED THAT REFERENCE HAD ORIGINALLY BEEN ELIMINATED.  
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ATED IN ORDER LEAVE INTERNATIONAL TRANSFERS QUESTION COMPLETELY OPEN, WITHOUT PREJUDGING IT IN ANY WAY. SECRETARIAT POINTED OUT, HOWEVER, THAT REGARDLESS OF WHETHER INTERNATIONAL TRANSFER PROVISIONS ARE IN OR OUT OF FINAL AGREEMENT, IMPORTS AND EXPORTS FROM CATEGORY ONE AND TWO FACILITIES MUST BE SHOWN ON ICR'S OR ELSE AGENCY WILL CONTINUALLY BE STUMBLING ACROSS UNEXPLAINED INCREASES AND DECREASES IN MATERIAL. SECRETARIAT NOTED THAT SECOND SENTENCE OF ARTICLE 12 PROVIDED FOR NOTIFICATION TO THE AGENCY "OF SUCH TRANSFERS IN ACCORDANCE WITH RELEVANT PROVISIONS OF PART II OF THIS AGREEMENT", BUT IN PRESENT DRAFT THERE ARE NO RELEVANT PROVISIONS FOR REPORTING EXPORTS AND IMPORTS FROM OR TO FACILITIES INCLUDED IN SUBSIDIARY ARRANGEMENTS LISTING. SIMPLE INSERTION OF "(I) IMPORT;" UNDER 39.J.(A) AND "(I) EXPORTV" UNDER 89.J.(B), AS IN INFCIRC/153, WOULD SOLVE PROBLEM WITHOUT SERIOUSLY PREJUDICING EVENTUAL DECISION RE ARTICLES 91-97.

10. IN PROTOCOL, SECRETARIAT SUGGESTED DELETION OF ENTIRE SECOND SENTENCE, BEGINNING "UNTIL AND UNLESS", FROM PROTOCOL ARTICLE 4.B. PURPOSE OF SENTENCE HAD BEEN TO ENSURE THAT PROVISIONS OF PROTOCOL REGARDING TRANSITIONAL FACILITY ATTACHMENTS WOULD APPLY TO FACILITY WHICH HAD BEEN MOVED FROM CATEGORY ONE TO CATEGORY TWO. HOWEVER, SECRETARIAT POINTED OUT THAT WORDS "SHALL CONSTITUTE THE TRANSITIONAL FACILITY ATTACHMENT", IN FIRST SENTENCE OF 4.?, CLEARLY ESTABLISH THE TFA AND ALL APPLICABLE PROVISIONS OF PROTOCOL AUTOMATICALLY COME INTO PLAY. PUTTING PRIDE OF AUTHORSHIP RELUCTANTLY ASIDE, WE CONCUR.

11. ONLY OTHER SECRETARIAT COMMENT ON PROTOCOL RELATED TO PROTOCOL ARTICLE 12. PHRASE "WITH THE EXCEPTION OF ANY NUCLEAR MATERIAL ASSOCIATED WITH AN ACTIVITY, WITHIN THE FACILITY, HAVING DIRECT NATIONAL SECURITY SIGNIFICANCE" IN 12.A AND "WITH THE EXCEPTION OF ANY ACTIVITIES HAVING DIRECT NATIONAL SECURITY SIGNIFICANCE" IN 12.B APPEAR TO BE UNNECESSARY, SINCE NO FACILITY HAVING ANY ACTIVITY WITH SECURITY SIGNIFICANCE CAN APPEAR ON ELIGIBLE LIST (VIZ. ARTICLE 1.B OF AGREEMENT). WE CONCUR AND RECOMMEND DELETION THOSE PHRASES.

12. NEXT MEETING, COMPARISON OF SCHEDULES REVEALED THAT NEXT NEGOTIATING SESSION, AT WHICH SECRETARIAT HOPEFULLY WILL GIVE ITS FULL RESPONSE TO US DRAFT, SHOULD BE NO LATER THAN APRIL 5.  
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SECRETARIAT WILL ENDEAVOR BE READY BY LATER MARCH IF AT ALL  
POSSIBLE.

13. ACTION REQUESTED. AUTHORIZATION TO INFORM IAEA OF US  
CONCURRENCE IN CHANGES SUGGESTED PARAS 4 TO 11 ABOVE.  
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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** NUCLEAR AGREEMENTS, AGREEMENT DRAFT, NUCLEAR SAFEGUARDS, NEGOTIATIONS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 26 FEB 1974  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** golinofr  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
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**Handling Restrictions:** n/a  
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**Legacy Key:** link1974/newtext/t1974029/aaaaaihu.tel  
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**Office:** ACTION SCI  
**Original Classification:** CONFIDENTIAL  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
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**Previous Classification:** CONFIDENTIAL  
**Previous Handling Restrictions:** n/a  
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**Secure:** OPEN  
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**TAGS:** PARM, US, IAEA  
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**Type:** TE  
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